

## HARVARD LAW SCHOOL

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Senator John Cornyn  
617 Senate Hart Office Building  
Washington, DC 20515

Dear Senator Cornyn:

Since its inception, the central promise of the federal bankruptcy system is that *all* creditors—large and small—have equal access to participate in the judicially-supervised liquidation or reorganization of the debtor. No bankruptcy will be run to benefit one group of creditors over another, or to permit the debtor to escape from close scrutiny after its financial collapse.

Unfortunately, that promise has been significantly eroded. Mega-companies and their counsel shop for courts that will render decisions that may favor the debtor, the attorneys or a small group of powerful creditors. These parties often file the bankruptcy petitions in locations far distant from most of the company's business and from most of its creditors, including its workers, retirees and local trade creditors who have made their own investments in the company.

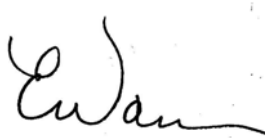
Forum shopping creates an advantage for the insiders, while making it virtually impossible for small creditors to participate in the bankruptcy process. Employees, pensioners, trade creditors and others have claims that are important to them, but that are not large enough to justify millions of dollars in lawyers' fees or trips to distant locations. As a result, many of these smaller parties are shut out of the system. They literally cannot get to the courthouse.

Bankruptcy courts around the country are capable of handling the cases that come their way—large or small. The judges are smart and thoughtful, and the court personnel are

dedicated and hard-working. No single court in this country, regardless of its experience, should have an exclusive lock on dealing with big cases. No court has special powers or unique skills to deal with the questions of claims, property of the estate, financing, fraud, attorneys' fees and so on—issues that can arise in any case, regardless of size.

The current system of court shopping harms too many parties. Closing a loophole in the bankruptcy laws that permits this unseemly practice and forcing companies in trouble to subject themselves to the scrutiny of their local courts and local creditors is an important step toward strengthening the credibility of the bankruptcy system. The reform embodied in your proposal is real reform. If a company prospers in part because it draws on the strength of the community where it operates, that same community should be able to participate fully in its financial reorganization.

Very truly yours,

A handwritten signature in black ink, appearing to read "EWan", with a stylized flourish at the end.

Elizabeth Warren  
Leo Gottlieb Professor of Law

EW/rs